

3225 MAIN STREET • P.O. BOX 226
BARNSTABLE, MASSACHUSETTS 02630



(508) 362-3828 • Fax (508) 362-3136 • www.capecodcommission.org

CAPE COD
COMMISSION

Minutes

**CCC Workshop/Meeting
Cape Cod Commission
Conference Room
3225 Main Street, Barnstable, MA 02630**

October 29, 2015

The workshop/meeting was convened at 3:00 p.m., and the Roll Call was recorded as follows:

Town	Member	Present
Barnstable	Royden Richardson	√ (<i>arrived at 3:01 p.m.</i>)
Bourne	Richard Conron	√
Brewster	Elizabeth Taylor	√
Chatham	Michael Skelley	√
Dennis	Richard Roy	√
Eastham	Joy Brookshire	Absent
Falmouth	Charles McCaffrey	√
Harwich	Jacqueline Etsten	Absent
Mashpee	Ernest Virgilio	√
Orleans	Len Short	√ (<i>arrived at 3:12 p.m.</i>)
Provincetown	Mark Weinress	Absent
Sandwich	Harold Mitchell	√
Truro	Kevin Grunwald	√
Wellfleet	Roger Putnam	√
Yarmouth	John McCormack, Jr.	√
County Commissioner	Mary Pat Flynn	√
Minority Representative	John Harris	√ (<i>arrived at 3:10 p.m.</i>)
Native American Rep.	Danielle Hill	Absent
Governor's Appointee	Vacant	Vacant

The Cape Cod Commission Member Workshop/Meeting was held on Thursday, October 29, 2015 at 3:00 p.m. in the Cape Cod Commission Large Conference Room, 3225 Main Street, Barnstable, MA. A quorum was established with 14 Commission members in attendance.

■ **SUMMARY OF WORKSHOP/MEETING:**

Approval of Minutes:

The Commission reviewed the minutes of the October 1, 2015 Cape Cod Commission meeting. Richard Conron moved to approve the minutes of October 1, 2015. Roger Putnam seconded the motion. A vote called on the motion to approve the minutes passed with a unanimous vote.

Review of Communications Policy for Cape Cod Commission Members:

Commission Counsel Jessica Wielgus provided a review of the Communications Policy for Cape Cod Commission members with the use of PowerPoint slides and answered questions from Commission members.

Cape Cod Commission Members Participation on Subcommittees:

There was a discussion among Cape Cod Commission members and staff on increasing participation on subcommittees and whether to consider drafting and adopting an attendance policy for Commission members.

Cape Cod Commission Members Use of Rules of Procedure

There was a discussion among Cape Cod Commission members and staff about the use of rules of procedure during Commission meetings and consideration of drafting and adoption of a rules policy.

■ **Communications Policy for Cape Cod Commission Members**

With the use of PowerPoint slides Commission Counsel Jessica Wielgus reviewed the Commission's Communications Policy for Commission members. She said the Commission has three broad functions: planning, technical assistance, and regulatory. She said in the first two areas—planning and technical assistance—Commission members are encouraged to communicate with officials and the public. She said in the regulatory role there are some limitations in when and how Commission members communicate. She said in reviewing Developments of Regional Impact (DRIs) Commission members serve as quasi-judicial board members. She then explained the role of Commission members during the DRI process in regard to public hearings, subcommittee meetings, full Commission meetings, and during an appeal period. She said projects under DRI review should be discussed only at public hearings or meetings and she explained how emails received during the DRI process are distributed to Commission members. She said Commission members may provide informational updates on the status of DRI review to Boards of Selectmen/Town Council, it must be done in an open session at a posted meeting after which Commission members should report each appearance at the next Commission subcommittee meeting and full Commission meeting, and minutes of the meeting must be provided to the other Commission members. She also reviewed the other purpose of the policy which is to avoid the appearance of pre-judgement or bias by members. Ms. Wielgus then reviewed frequently asked questions regarding the role of Commission members and answered questions from Commission members. Frequently asked question topics included updating town officials on DRIs, information received as part of a DRI, subcommittee discussions, applicability of policy to full Commission members, and description of bias. She discussed the use of social media as a place that potentially could be used to show bias. She also reviewed the members' participation in other forums, such as participation on other town boards. Ms. Wielgus also reminded them that the Open Meeting Law also applied to these same communications, and reminded them about multi-member attendance at another meeting, emailing the membership and on-line posting of forums and social media.

Jack McCormack said there could be possible conflicts during a site visit. Roger Putnam questioned why a project cannot be discussed during a site visit and said it doesn't make sense. Executive Director Paul Niedzwiecki said that is a state requirement of the Attorney General.

Elizabeth Taylor said she sits on five other boards in her town and asked if discussion/participation on a particular item on the town level would be seen as a conflict if it came up at the Commission as a similar item as a project. Jessica Wielgus said it would be dependent on what is said but it should generally not be a problem.

Kevin Grunwald questioned the use of emails among members. Jessica Wielgus explained and said emails could be viewed as deliberation and advised members not to correspond through email. Ernest Virgilio asked if email could be used by say the nominating committee to arrange meeting dates and times for the committee to meet. Jessica Wielgus said that is acceptable.

Charles McCaffrey said he works as a consultant and writes policies on planning issues outside of the Commission's jurisdiction and asked if that would be considered a conflict. Jessica Wielgus said if it's outside of the Commission's jurisdiction it should not be a problem.

Ernest Virgilio asked if someone gives their opinion if that is considered a bias. Paul Niedzwiecki said professional advice outside of the Commission's jurisdiction is probably ok.

Ernest Virgilio asked if Commission members could advise their Boards of Selectmen (BOS) on the Open Meeting Law and asked if the information being discussed today could be taken to their BOSs. Paul Niedzwiecki said yes.

Len Short said members don't always have information on what the Commission is doing to take to their towns. He said he would suggest that information be given to members on a monthly basis. Paul Niedzwiecki said information could be added to Commission meeting agendas and the Commission could also refer to additional information on the Commission's website.

■ Cape Cod Commission Members Participation on Subcommittees

Commission members discussed meeting times that work best for those members who work fulltime. Paul Niedzwiecki said the Commission tried changing the time of full Commission meetings in the past but it was not well received.

Harold Mitchell said he is more concerned about members who go away for two to three months at a time and said he sees the same members sitting on subcommittees. He said moving the time is not beneficial. He said perhaps Boards of Selectmen (BOS) could assign alternates for those members who go away for long periods of time. He said it does not serve a town well if their member is absent and unable to participate on subcommittees or attend Commission meetings.

Paul Niedzwiecki said they have moved the Commission's standing committee meetings to the same day as full Commission meetings to make it more convenient for members to attend multiple meetings on the same day as opposed to separate meeting days.

Kevin Grunwald said subcommittee attendance or assignments should be made clear, the policy is only good if it's enforced and he understands it's not an easy thing to do.

Paul Niedzwiecki said the Commission cannot dismiss anyone nor can Commission members dismiss others. He said appointments are made by towns.

Jack McCormack said ultimately a BOS has the final say. He said perhaps an annual report could be sent to towns with an attendance record. Roger Putnam agreed and said that's a good idea. Mike Skelley said in Chatham there are a lot of vacancies and these positions are not easy to fill.

Several members said they like the meeting times for standing committees and full Commission meetings as they are now scheduled; it works fine. Members said there is no problem with late afternoon and evening meetings but morning meetings present a problem for those members who work.

Kevin Grunwald said he agrees with Mr. Mitchell regarding subcommittees. Harold Mitchell said perhaps if someone misses a quarter of scheduled meetings their BOS should be made aware of that. Royden Richardson said the Commission sometimes has vacancies for long periods of time and that may have an effect on that.

Richard Roy asked if a BOS could consider appointing an alternate. Paul Niedzwiecki said this has come up before. Mary Pat Flynn said in Falmouth they have alternate board members and it has worked well. She said if there is a vacancy then the alternate moves up.

Paul Niedzwiecki talked about quorums for Commission meetings and the Governor's appointee vacancy and said perhaps that will change with the new administration. He said appointing alternates and perhaps sending member "report cards" to towns

are good suggestions and they will be considered. Jack McCormack said, again, it would only be informational to towns as towns have the final say.

■ **Cape Cod Commission Members Use of Rules of Procedure**

Paul Niedzwiecki talked about Roberts Rules and Mason Rules and said Roberts Rules are generally used as the general rule book and Mason Rules are used by legislative bodies a lot and is based more on case laws used by legislative bodies. He said both books are about 400 pages in length and can be problematic in regard to parliamentary procedures. He said he would like to strive to come up with a form on how Commission meetings will be conducted in a form other than Roberts and Mason Rules. He said the Commission is quasi-judicial and quasi-legislative and it is very unique.

Mike Skelley said he served three terms in the Senate and was asked to sit on the Rules Commission. He talked about having a Parliamentarian for Commission meetings and the benefit of having a Parliamentarian to assist the Chair during meetings. He said that person has a significant role at meetings ensuring that business is conducted in an orderly fashion when a situation arises. He said during his experience in the Senate the Parliamentarian was very seldom used but was there if needed. He said he thinks Roberts Rules are fair and suggested that the Commission establish a policy that uses a Parliamentarian.

Mr. Niedzwiecki and members discussed a recent Commission meeting that was held and agreed that it could have been more organized procedurally. Mr. Skelley said that is where a Parliamentarian comes in; a Parliamentarian can assist with the order of business during a meeting. Len Short said it would be helpful during meetings that the motion that is being voted on be repeated when a vote on the motion is called. He said if a problem arises then they look to Commission Counsel. Members discussed adopting rules that would be used to conduct business at Commission meetings. Mr. Niedzwiecki said he would suggest coming up with a draft policy that is not completely aligned with Roberts Rules but is similar in some ways to Roberts Rules in that it would take some components of Roberts Rules and work them into the Commission's process and procedures.

Mr. Niedzwiecki said Commission staff could draft a 2-3 page policy on meeting procedures/rules and bring it to the full Commission during another workshop session sometime in December and members agreed to that. He said it's beneficial to hold workshop sessions and he would like to continue to do that. He thanked Commission members for their participation and said today's session was very useful and productive.

A motion was made to adjourn at 4:40 p.m. The motion was seconded and voted unanimously.

Respectfully submitted,

John H. McCormack, Secretary

Materials Presented at the October 29, 2015 Commission Member Workshop/Meeting

- Handout material: Meeting minutes of the October 1, 2015 Cape Cod Commission meeting.
- Handout material: October 29, 2015 Commission Member Workshop/Meeting Agenda.
- Materials presented: PowerPoint slide presentation on the Communications Policy for Cape Cod Commission Members prepared and presented by Jessica Wielgus.